

Executive Summary – Enforcement Matter – Case No. 42828
City of Eagle Pass Water Works System
RN101387710
Docket No. 2015-1516-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Indifference to legal duty based on violation of a previous order.

Media:

PWS

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Eagle Pass Surface Water Treatment Plant, 859 Jefferson Street, Eagle Pass,
Maverick County

Type of Operation:

Public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: January 8, 2016

Comments Received: No

Penalty Information

Total Penalty Assessed: \$5,330

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$5,330

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project ("SEP") Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - N/A

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: April 16, 2014 and August 3, 2015

Date(s) of NOE(s): September 9, 2015

Executive Summary – Enforcement Matter – Case No. 42828
City of Eagle Pass Water Works System
RN101387710
Docket No. 2015-1516-PWS-E

Violation Information

1. Failed to maintain the Facility's storage tanks in strict accordance with current American Water Works Association ("AWWA") standards [30 TEX. ADMIN. CODE § 290.43(c)(8) and TCEQ Agreed Order Docket No. 2011-1967-PWS-E, Ordering Provision No. 2.e.].
2. Failed to maintain water works operation and maintenance records and make them readily available for review by the Executive Director upon request including records relating to other system-specific matters as directed by the Executive Director [30 TEX. ADMIN. CODE § 290.46(f)(2) and (f)(3)(G)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

As of October 6, 2015, the Respondent has implemented the following corrective measures:

- a. Repaired the cathodic protection systems for the Callejon Terran and College Hills storage tanks; and
- b. Submitted records of the current connection count including equivalent living units and the number of connections and equivalent living units in each pressure plane.

Technical Requirements:

The Order will require the Respondent to:

- a. Within 180 days, begin maintaining the Facility's storage tanks in strict accordance with current AWWA standards, including but not limited to repairing and repainting or replacing the North Loop and Seco Mines storage tanks and cleaning the interiors of the Callejon Terran and College Hills tanks; and
- b. Within 195 days, submit written certification to demonstrate compliance with a.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Executive Summary – Enforcement Matter – Case No. 42828
City of Eagle Pass Water Works System
RN101387710
Docket No. 2015-1516-PWS-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Michaelle Garza, Enforcement Division,
Enforcement Team 2, MC R-13, (210) 403-4076; Melissa Cordell, Enforcement Division,
MC 219, (512) 239-2483

TCEQ SEP Coordinator: N/A

Respondent: Jorge Barrer, General Manager, City of Eagle Pass Water Works System,
P.O. Box 808, Eagle Pass, Texas 78853-0808
Hugo Zapata, Chairman, City of Eagle Pass Water Works System, P.O. Box 808, Eagle
Pass, Texas 78853-0808

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	14-Sep-2015	Screening	25-Sep-2015	EPA Due	
	PCW	9-Oct-2015				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Eagle Pass Water Works System		
Reg. Ent. Ref. No.	RN101387710		
Facility/Site Region	16-Laredo	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	42828	No. of Violations	3
Docket No.	2015-1516-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Michaelle Garza
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$4,270
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	25.0%	Adjustment	Subtotals 2, 3, & 7	\$1,067
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Notes: Enhancement for one agreed order without a denial of liability.

Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$7
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$136,119
Estimated Cost of Compliance: \$769,080
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$5,330
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$5,330
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$5,330
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$5,330
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Screening Date 25-Sep-2015

Docket No. 2015-1516-PWS-E

PCW

Respondent City of Eagle Pass Water Works System

Policy Revision 4 (April 2014)

Case ID No. 42828

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101387710

Media [Statute] Public Water Supply

Enf. Coordinator Michaelle Garza

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 25%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for one agreed order without a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 25%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 25%

Screening Date 25-Sep-2015

Docket No. 2015-1516-PWS-E

PCW

Respondent City of Eagle Pass Water Works System

Policy Revision 4 (April 2014)

Case ID No. 42828

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101387710

Media [Statute] Public Water Supply

Enf. Coordinator Michaelle Garza

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.43(c)(8) and TCEQ Agreed Order Docket No. 2011-1967-PWS-E, Ordering Provision No. 2.e.

Violation Description

Failed to maintain the Facility's storage tanks in strict accordance with current American Water Works Association ("AWWA") standards. Specifically, the Seco Mines and North Loop storage tanks were in need of repairs and repainting.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Major	Moderate	Minor
Actual			
Potential		x	

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to design and maintain storage tanks in strict accordance with AWWA standards could allow customers of the Facility to be exposed to significant amounts of contaminants which would not exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 26

1149 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$3,900

Twenty-six quarterly events are recommended (13 for each tank), calculated from the effective date of TCEQ Agreed Order Docket No. 2011-1967-PWS-E, August 2, 2012, to the date of screening, September 25, 2015.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$3,900

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$109,374

Violation Final Penalty Total \$4,875

This violation Final Assessed Penalty (adjusted for limits) \$4,875

Economic Benefit Worksheet

Respondent City of Eagle Pass Water Works System
Case ID No. 42828
Reg. Ent. Reference No. RN101387710
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$382,500	2-Aug-2012	1-Sep-2016	4.08	\$5,208	\$104,166	\$109,374
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to repair, refurbish, and repaint the North Loop and Seco Mines tanks so that they meet AWWA requirements, calculated from the effective date of TCEQ Agreed Order Docket No. 2011-1967-PWS-E to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$382,500

TOTAL

\$109,374

Screening Date 25-Sep-2015

Docket No. 2015-1516-PWS-E

PCW

Respondent City of Eagle Pass Water Works System

Policy Revision 4 (April 2014)

Case ID No. 42828

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101387710

Media [Statute] Public Water Supply

Enf. Coordinator Michaelle Garza

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.43(c)(8)

Violation Description

Failed to maintain the Facility's storage tanks in strict accordance with current AWWA standards. Specifically, the Callejon Terran and College Hills storage tanks were in need of repairs to the cathodic protection systems and cleaning of the interiors.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to design and maintain storage tanks in strict accordance with AWWA standards could allow customers of the Facility to be exposed to significant amounts of contaminants which would not exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 2

53 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$300

Two quarterly events are recommended (one for each tank), calculated from the date of the investigation, August 3, 2015, to the date of screening, September 25, 2015.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$300

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$26,708

Violation Final Penalty Total \$375

This violation Final Assessed Penalty (adjusted for limits) \$375

Economic Benefit Worksheet

Respondent City of Eagle Pass Water Works System

Case ID No. 42828

Reg. Ent. Reference No. RN101387710

Media Public Water Supply

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment	\$40,000	3-Aug-2015	6-Oct-2015	0.18	\$23	\$468	\$491
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$346,080	3-Aug-2015	1-Sep-2016	1.08	\$1,248	\$24,968	\$26,217
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The equipment delayed cost includes the estimated amount to repair the cathodic protection systems for the Callejon Terran and College Hills tanks so that they meet AWWA requirements, calculated from the date of the investigation to the date the cathodic protection systems were repaired.

The other delayed cost includes the estimated amount to clean the interiors of the Callejon Terran and College Hills tanks so that they meet AWWA requirements, calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$386,080

TOTAL

\$26,708

Screening Date 25-Sep-2015

Docket No. 2015-1516-PWS-E

PCW

Respondent City of Eagle Pass Water Works System

Policy Revision 4 (April 2014)

Case ID No. 42828

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101387710

Media [Statute] Public Water Supply

Enf. Coordinator Michaelle Garza

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 290.46(f)(2) and (f)(3)(G)

Violation Description

Failed to maintain water works operation and maintenance records and make them readily available for review by the Executive Director upon request including records relating to other system-specific matters as directed by the Executive Director. Specifically, records of the connection count including current equivalent living units such as new apartment complexes and other multi-unit sites that were added to the system since the 2007 records and the number of connections, including equivalent living units, in each pressure plane were requested but not provided.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
		x	

Percent 7.0%

Matrix Notes

Between 30% to 70% of the rule requirements were met.

Adjustment \$930

\$70

Violation Events

Number of Violation Events 1

53 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$70

One single event is recommended.

Good Faith Efforts to Comply

10.0%

Reduction \$7

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		x
N/A		(mark with x)

Notes

The Respondent achieved compliance on October 6, 2015.

Violation Subtotal \$63

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$37

Violation Final Penalty Total \$81

This violation Final Assessed Penalty (adjusted for limits) \$81

Economic Benefit Worksheet

Respondent City of Eagle Pass Water Works System

Case ID No. 42828

Reg. Ent. Reference No. RN101387710

Media Public Water Supply

Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	16-Apr-2014	6-Oct-2015	1.47	\$37	n/a	\$37
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to compile and begin maintaining the connection count records, calculated from the date of the investigation the violation was initially documented to the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$37



Compliance History Report

PENDING Compliance History Report for CN602520165, RN101387710, Rating Year 2015 which includes Compliance History (CH) components from September 1, 2010, through August 31, 2015.

Customer, Respondent, or Owner/Operator: CN602520165, City of Eagle Pass Water Works System **Classification:** SATISFACTORY **Rating:** 0.29

Regulated Entity: RN101387710, CITY OF EAGLE PASS SWTP **Classification:** NOT APPLICABLE **Rating:** N/A

Complexity Points: N/A **Repeat Violator:** N/A

CH Group: 14 - Other

Location: 859 JEFFERSON STREET, EAGLE PASS, MAVERICK COUNTY, TEXAS

TCEQ Region: REGION 16 - LAREDO

ID Number(s):

PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1620001

Compliance History Period: September 01, 2010 to August 31, 2015 **Rating Year:** 2015 **Rating Date:** 09/01/2015

Date Compliance History Report Prepared: September 25, 2015

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: September 25, 2010 to September 25, 2015

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Michaelle Garza

Phone: (210) 403-4076

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

1 Effective Date: 08/02/2012 ADMINORDER 2011-1967-PWS-E (Findings Order-Agreed Order Without Denial)

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)

30 TAC Chapter 290, SubChapter D 290.46(m)(4)

Description: Failure to ensure the good working condition and general appearance of the system's facilities and equipment. Failure to maintain the grounds and facilities to prevent conditions that might cause the contamination of the water.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(j)(1)

30 TAC Chapter 290, SubChapter D 290.46(j)(1)(A)

30 TAC Chapter 290, SubChapter D 290.46(j)(1)(B)

Description: Failure to have customer service investigations completed by an individual recognized as capable of conducting such inspections.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(3)

30 TAC Chapter 290, SubChapter D 290.43(c)(8)

Description: Failed to design the tank's overflow in strict accordance with American Water Works Association ("AWWA") standards such that the overflow terminates with a gravity-hinged and weighted cover that does not have a gap of greater than 1/16th of an inch and failed to maintain the Facility's storage tanks in strict accordance with current AWWA standards.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)

Description: Failed to maintain all treatment units, storage and pressure maintenance facilities, distribution system lines and related appurtenances in a watertight condition.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF EAGLE PASS WATER
WORKS SYSTEM
RN101387710**

§ **BEFORE THE**
§
§ **TEXAS COMMISSION ON**
§
§ **ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2015-1516-PWS-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Eagle Pass Water Works System (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a public water supply located at 859 Jefferson Street in Eagle Pass, Maverick County, Texas (the "Facility") that has approximately 15,640 service connections and serves at least 25 people per day for at least 60 days per year.
2. During an investigation conducted on August 3, 2015, TCEQ staff documented that the Seco Mines and North Loop storage tanks were in need of repairs and repainting and the Callejon Terran and College Hills storage tanks were in need of repairs to the cathodic protection systems and cleaning of the interiors.
3. During investigations conducted on April 16, 2014 and August 3, 2015, TCEQ staff documented that records of the connection count including current equivalent living units such as new apartment complexes and other multi-unit sites that were added to the system since the 2007 records and the number of connections, including equivalent living units, in each pressure plane were requested but not provided.
4. The Respondent received notice of the violations on September 14, 2015.
5. The Executive Director recognizes that as of October 6, 2015, the Respondent has implemented the following corrective measures at the Facility:
 - a. Repaired the cathodic protection systems for the Callejon Terran and College Hills storage tanks; and
 - b. Submitted records of the current connection count including equivalent living units and the number of connections and equivalent living units in each pressure plane.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to maintain the Facility's storage tanks in strict accordance with current American Water Works Association ("AWWA") standards, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(8) and TCEQ Agreed Order Docket No. 2011-1967-PWS-E, Ordering Provision No. 2.e.
3. As evidenced by Findings of Fact No. 3, the Respondent failed to maintain water works operation and maintenance records and make them readily available for review by the Executive Director upon request including records relating to other system-specific matters as directed by the Executive Director, in violation of 30 TEX. ADMIN. CODE § 290.46(f)(2) and (f)(3)(G).

4. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of Five Thousand Three Hundred Thirty Dollars (\$5,330) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid the Five Thousand Three Hundred Thirty Dollar (\$5,330) administrative penalty.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Five Thousand Three Hundred Thirty Dollars (\$5,330) as set forth in Section II, Paragraph 5 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Eagle Pass Water Works System, Docket No. 2015-1516-PWS-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements:
 - a. Within 180 days after the effective date of this Agreed Order, begin maintaining the Facility's storage tanks in strict accordance with current AWWA standards, including but not limited to repairing and repainting or replacing the North Loop and Seco Mines Storage tanks and cleaning the interiors of the Callejon Terran and College Hills tanks, in accordance with 30 TEX. ADMIN. CODE § 290.43.
 - b. Within 195 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation

including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section Manager
Laredo Regional Office
Texas Commission on Environmental Quality
707 East Calton Road, Suite 304
Laredo, Texas 78041-3887

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

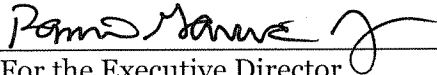
6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



3/10/16

For the Executive Director

Date

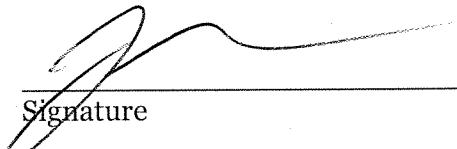
I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Eagle Pass Water Works System. I am authorized to agree to the attached Agreed Order on behalf of the City of Eagle Pass Water Works System, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, the City of Eagle Pass Water Works System waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

11-23-15
Date

Jorge Barner
Name (Printed or typed)
Authorized Representative of
City of Eagle Pass Water Works System

General Manager
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section III, Paragraph 1 of this Agreed Order.